

# **BEFORE THE TENNESSEE EMERGENCY COMMUNICATIONS BOARD**

**Nashville, Tennessee**

**March 31, 2004**

**IN RE: RESOLUTION OF THE BOARD OF MAYOR AND ALDERMEN OF  
MOUNTAIN CITY, TENNESSEE, REQUESTING REVIEW OF A DECISION OF  
THE BOARD OF DIRECTORS OF THE JOHNSON COUNTY EMERGENCY  
COMMUNICATIONS BOARD PURSUANT TO TENN. CODE ANN. § 7-86-312**

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## **INTERIM ORDER**

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This matter came before the Tennessee Emergency Communications Board ("Board" or "TECB") during a properly noticed meeting convened on January 15, 2004 to consider a resolution adopted pursuant to Tenn. Code Ann. § 7-86-312 by the Board of Mayor and Aldermen of the Town of Mountain City. The resolution, adopted September 9, 2003, stated:

Be it resolved by the Board of Mayor and Aldermen of the Town of Mountain City, Tennessee:

That pursuant to T.C.A. 7-86-312, the Town of Mountain City, Tennessee requests the Tennessee Emergency Communications Board, Department of Commerce and Insurance, to review the decision of the Board of Directors of Johnson County ECD-911, adopted September 5, 2003, arbitrarily terminating 911 dispatch services and emergency communications services to the Town of Mountain City, Tennessee.

### **Background**

This controversy arose from a dispute over the funding of the Johnson County Emergency Communications District. ("ECD").<sup>1</sup> The ECD is funded through an emergency telephone service charge on landlines of \$.65 per month for each residential landline and \$2 for each business line operating in the district,<sup>2</sup> a charge on wireless subscribers distributed by the TECB pursuant to Tenn. Code Ann. § 7-86-303 and varying contributions from Johnson County and the Town of Mountain City.<sup>3</sup> Johnson County and the Town of Mountain City did not formalize their respective annual

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<sup>1</sup> Transcript of the January 15, 2004 Meeting of the TECB, p. 44.

<sup>2</sup> See *id.*; Tenn. Code Ann. § 7-86-108(a)(1)(A).

<sup>3</sup> See Tenn. Code Ann. § 7-86-303(d)(1).

contributions to the ECD in an interlocal agreement.<sup>4</sup> According to the City Recorder, the County and City made the following contributions to the ECD:

<u>YEAR</u>	<u>COUNTY</u>	<u>CITY</u>
1998-1999	\$84,170.00	\$76,291.00
1999-2000	\$46,115.00	\$74,938.00
2000-2001	\$37,440.00	\$74,800.00
2001-2002	\$42,000.00	\$68,497.00
2002-2003	\$61,500.00	\$63,100.00
2003-2004	\$84,043.00 <sup>5</sup>	\$88,696.00 (budgeted) \$25,000(paid as of 11/19/03) <sup>6</sup>

Since 1998, the ECD has provided dispatching of police, fire, animal control, water, sewerage and public works to the Town of Mountain City.<sup>7</sup> The ECD provides twenty-four hour a day dispatching service to the City. Until December 15, 2003, the County performed its own dispatching with the ECD utilizing the relay method to respond to 911 calls for the County.<sup>8</sup> The ECD averages 2,650 calls per month, 623 of which are emergency calls.<sup>9</sup> According to figures from the ECD, from January 1 through August 20, 2003, the Town of Mountain City generated 1,252 calls for which public officials were dispatched in response. The rest of Johnson County generated 738 calls over the same period. The parties agree that the Town's population is approximately 2,500 and the County population is approximately 17,500.<sup>10</sup> The ECD employs seven full time dispatchers at approximately \$9.25 per hour including benefits to respond to the calls.<sup>11</sup>

The ECD's budget for the 2003-2004 fiscal year was \$304,000, \$168,086 of which covered payroll.<sup>12</sup> For the 2003-2004 fiscal year, the ECD requested \$84,043 from Mountain City to pay for the salaries of four dispatchers and \$3,460 to fund the Town's

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<sup>4</sup> See *Position of the Town of Mountain City*, p.1 (filed with the TECB on December 8, 2003).

<sup>5</sup> The ECD asserts that it received \$242,202.15 from the County during the 2003-2004 fiscal year, \$2000,000 of which was for new equipment. Statement of ECD (January 13, 2004).

<sup>6</sup> As of March 18, 2004, the Town had paid \$52,041 to the ECD.

<sup>7</sup> See *Position of the Town of Mountain City*, p. 2, ¶ 4. Presumably, the ECD utilized one of the other statutorily permitted means to respond to emergency calls it received from county residents. See Tenn. Code Ann. § 7-86-107(a) (authorizing ECDs to respond to emergency calls by utilizing the following methods: (1) direct dispatch; (2) relay; and (3) transfer).

<sup>8</sup> See Transcript of the January 15, 2004 Meeting of the TECB, p. 45; Response of Johnson County ECD to *Position of the Town of Mountain City* (hereinafter "12/22/03 Response of ECD"), p. 3, (filed December 22, 2003).

<sup>9</sup> Zuercher, Darrell, "911 Leave Mountain City out of 2003-2004 budget." *The Tomohawk* (September 10, 2003).

<sup>10</sup> See *Position of the Town of Mountain City*, p. 2, ¶ 2; 12/22/03 Response of ECD, p. 1, ¶ 2 (filed December 22, 2003).

<sup>11</sup> See Transcript of the January 15, 2004 Meeting of the TECB, p. 67.

<sup>12</sup> *Position of the Town of Mountain City*, p. 1 (filed December 8, 2003); Transcript of January 15, 2004 Meeting of the TECB, p. 63.

National Crime Information Center ("NCIC") service for six months.<sup>13</sup> As noted above, the Town budgeted a contribution of approximately \$88,000 to fund the ECD.

Some time prior to August 2003, the ECD decided to move its facilities to the newly constructed Johnson County Jail.<sup>14</sup> According to an article by Darrell Zuecker published in *The Tomahawk*, the decision to move the ECD was reached after the Johnson County Commission learned that the ECD needed new consoles that cost approximately \$85,000, but had only \$5,000 to expend on the purchase. The article quoted Tom Taylor, a member of the ECD Board, as stating that the county's response to the ECD's need was: "we have some jail fund money and we can put this equipment in the jail; if you can move up here, you can use it; we will lease you the space."<sup>15</sup> According to the article, Johnson County ECD Chairman Randy Stewart indicated that with the move the ECD would save on electricity and heating expenses, insurance and a stand-by generator, all costs which the county would absorb.<sup>16</sup> The ECD leased space for a dispatch center in the new Jail, commenced dispatching for the County and leased approximately \$200,000 in new equipment, including new telephone and radio consoles, MPDs and a tower from the County for a nominal fee of \$1 per year.<sup>17</sup>

The benefit received by the County from this arrangement is the subject of some disagreement. Mountain City asserts that it was advised that the County would save \$94,300.<sup>18</sup> The ECD contends that the County would not save any money because the County's former dispatchers were transferred to other duties at the jail and the County had to hire additional employees.<sup>19</sup>

After learning of the ECD's decision to move, the Mountain City Board of Mayor and Aldermen held a public meeting in August 2003. During this meeting, the Board of Mayor and Aldermen voted to cut the town's projected funding of the Johnson County ECD from over \$84,000 to \$25,000.<sup>20</sup>

During the meeting, Mountain City Mayor Harvey Burniston, who is also a member of the ECD Board, justified this cut based on the fact that less than 15% of Johnson County residents live in Mountain City.<sup>21</sup> Nevertheless, Paul Gobble, the Alderman who made the motion to cut the 911 funding, was quoted as saying:

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<sup>13</sup> 12/22/02 Response of ECD p. 1, ¶¶ 1, 6, p. 2.

<sup>14</sup> See Transcript of the January 15, 2004 Meeting of the TECB, p. 45.

<sup>15</sup> Zuercher, Darrell, "911 Leave Mountain City out of 2003-2004 budget." *The Tomohawk* (September 10, 2003).

<sup>16</sup> See *id.*

<sup>17</sup> See *id.*; Transcript of the January 15, 2004 Meeting of the TECB, pp. 55-56.

<sup>18</sup> See *Position of the Town of Mountain City*, p. 3, ¶ 9.

<sup>19</sup> 12/22/03 Response of ECD, p. 1, ¶ 9.

<sup>20</sup> See *Position of the Town of Mountain City*, p. 3, ¶ 10. It was also reported that the budget cut was a response to a loss of \$50,000 in state funds this year.

<sup>21</sup> Zuercher, Darrell, "911 Leave Mountain City out of 2003-2004 budget." *The Tomohawk* (September 10, 2003).

Had they not decided to move, we probably would have continued the \$84,000. The county was saving \$96,000 with the move, but the city was not saving anything. We only collect \$305,000 in property taxes each year. \$84,000 is nearly 30% of our total income from property taxes. Just for 911 service. So I looked at the 911 budget. They get money from the telephone bills, doing security system and NCIC monitoring. So I looked at how much more they needed and multiplied by 14.3%, which is how many county residents live in the city. It came to just under \$25,000. That's the figure I took to the City Council. They are already getting funding from city residents from the county taxes that come from the city residents, and from the telephone surcharges from city homes and businesses.<sup>22</sup>

It should be noted that the Town received approximately \$50,000 less from the State in 2003.<sup>23</sup>

On September 4, 2003, the Johnson County ECD Board held a public meeting to discuss and vote on amending its budget in response to the decision of the Town of Mountain City to cut its contribution to the ECD. During the meeting, the ECD Board voted to amend its 2003-2004 budget from \$304,000 to \$220,000. The ECD Board also rejected Mountain City's offer to pay \$25,000 in exchange for the dispatching services the ECD was providing. Chairman Stewart was quoted as saying, "If the city could have offered us, say \$50,000, maybe we could have worked something out, I don't know."<sup>24</sup> The ECD voted to cease dispatching duties related to Mountain City's police, fire, water, animal control and National Crime Information Center ("NCIC") service.<sup>25</sup> The ECD's decision was limited only to ceasing dispatching, and not to the two other approved methods of responding to 911 calls.<sup>26</sup>

On September 5, 2003, Eugene Campbell, ECD Director, issued a memo providing Mountain City with official notice that the above mentioned dispatching services would be discontinued. The memo states:

To whom it may concern:

On Thursday, September 4, 2003, our Board of Directors met to approve the 2003-2004 fiscal year budget. Presented to the Board of Directors was a contract from the Town of Mountain City for dispatching. After reviewing the contract it was voted down. The next step was to decide what services we will provide for the City dispatch. This will also service as your official notice as to when the services will end.

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<sup>22</sup> See *id.*

<sup>23</sup> See Transcript of the January 15, 2004 Meeting of the TECB, p. 52.

<sup>24</sup> Zuercher, Darrell, "911 Leave Mountain City out of 2003-2004 budget." *The Tomohawk* (September 10, 2003).

<sup>25</sup> See *id.*

<sup>26</sup> Transcript of the January 15, 2004 Meeting of the TECB, pp. 74-76; see Tenn. Code Ann. § 7-86-107 (establishing the three (3) approved response methods).

727-8181                      14 days from 9/5/03. This means after 14 days we will not longer accept this line in our facility.

2. Water dispatch              14 days from 9/5/03. This mans after 14 days the tow will have to have there on [sic] water dispatcher.
- 3 NCIC                      30 days from 9/5/03. This means after 30 days Johnson County ECD-911 will no longer have an agreement to do NCIC work for the Town of Mountain City,
4. Police Dispatch              30 days from 9/5/03. This means in 30 days the town of Mountain City will have to have in place there on [sic] Police dispatch.
5. Animal Control              14 days from 9/5/03. This means in 14 days the town of Mountain City will be required to have someone to dispatch animal control for them.
6. Fire Dispatch              60 days from 9/5/03. This means that Johnson County ECD-911 will continue doing dispatching for the City fire dept for 60 days, after that time it will go back to the town of Mountain City to take care of.

You will also find attached an invoice for the work we have done this fiscal year for the town of Mountain City. This total will also cover dispatching until the time frames are over. The amount of the invoice for our services will total \$21,010.75.

In response, the Mountain City Board of Mayor and Aldermen called an emergency session on September 9, 2003. Alderman Paul Gobble suggested that the town provide its own dispatching and form its own 911 board. After further discussion, the Board of Mayor and Aldermen passed the above quoted resolution requesting the TECB to review the Johnson County ECD's decision to halt it dispatching for Mountain City.

On September 19, the ECD notified the mayor and aldermen of Mountain City that upon receipt of the check for \$25,000, all cut-off dates previously established would be extended for 60 days. Ultimately, the ECD agreed to extend the cut off dates until January 31, 2004.<sup>27</sup>

Subsequently, a committee composed of two members of the town council, two members of the ECD and two members appointed by the Johnson County Commission

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<sup>27</sup> See Transcript of the January 15, 2004 Meeting of the TECB, p. 66.

was formed to address the dispute between Mountain City and the Johnson County ECD.<sup>28</sup>

After receiving the resolution adopted by the Board of Mayor and Aldermen of the Town of Mountain City, this matter was placed on the agenda for the TECB meeting scheduled for January 15 and 16, 2004.

### **Positions of the Parties**

The parties to this dispute were requested to set forth their positions, pertinent parts of which are discussed and/or quoted below. Mountain City framed the issue for the Board's review as follows:

The specific grievance for which review is sought is the threatened and arbitrary discontinuance of E-911 services to residents of the Town of Mountain City, Tennessee, dispatches to the Police Department, Fire Department, animal control, water emergencies heretofore provided by the Johnson County Emergency Communications District.<sup>29</sup>

Mountain City argues that "the amount heretofore funded by the Town and the amount currently requested by Johnson County E-911 District has been totally unfair and disproportionate to the respective population of the Town of Mountain City visa via [sic] the entire population of Johnson County, Tennessee."<sup>30</sup> Mountain City also states that:

the Johnson County Emergency Communications District should inquire as to other methods of funding its budget, such as increasing its surcharges on the telephones . . . and seek additional funding from Johnson County, Tennessee, who, from all indications to the Town, are saving approximately \$94,000 per year by virtue of the decision of the Johnson County Emergency Communications District to move its entire operations from its existing building (which has been paid for) to the newly opened or to be opened Johnson County Jail facility. Additionally, once the move has been completed, the rental for the current building owned by the Johnson County Emergency Communications District should be explored as an additional source of revenue for funding 911 services and its budget.<sup>31</sup>

The Johnson County ECD responds in pertinent part that it cannot afford to provide Mountain City with its present level of service for \$25,000.00 annually. The ECD states:

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<sup>28</sup> See Transcript of the January 15, 2004 Meeting of the TECB, p. 90.

<sup>29</sup> See *Position of the Town of Mountain City*, p. 4.

<sup>30</sup> *Id.* at 6.

<sup>31</sup> *Id.*

For the year of 2003 Johnson County E-911 has handled 2 to 1 more calls for the Town of Mountain City than [for the] Johnson County Sheriff Dept. This figure does not include the many water and animal calls we have taken. Johnson County E-911 bought the NCIC computer and printer for Mountain City. Johnson County E-911 also provides all printer paper and ink for the NCIC computer. Johnson County E-911 also pays all expenses to have dispatchers trained for this computer. Johnson County Rescue Squad pays for all medical dispatch training for Johnson County E-911. The NCIC has no benefit for 911. This computer is used for the officers to get information on license plates, driver's license, wanted checks, etc.

Johnson County E-911 has been doing the Direct Dispatch Method for the Town of Mountain City since 1998. Johnson County E-911 has been doing the Relay Method for the Johnson County Sheriff Dept. since 1998. In fiscal year 2002-2003 Johnson County paid \$61,500.00 for the Relay Method. The Town of Mountain City paid \$61,500.00 for the Direct Dispatching Method. As of Dec. 15<sup>th</sup>, 2003 Johnson County E-911 has taken over all direct dispatching for Johnson County.

Prior to 1998 when the Town of Mountain City had dispatch in their Police Dept., it took 4 full-time dispatchers to do the job. Johnson County E-911 is only asking for salaries for 4 dispatchers. Johnson County E-911 provides a dispatcher that handles all City calls 24 hours per day.

The statement has been made several times that if Johnson County 911 hadn't decided to move to the new jail our funding would have never been cut. This sounds like The Town of Mountain City Board of Aldermen wants to be in charge and run Johnson County 911. Another statement that has been made is that the town was cut \$50,000.00 by the state so they had to cut 911 and other organizations. Johnson County E-911 was cut \$59,000.00 from the original budget that was approved by the Town of Mountain City Board of Aldermen.

Johnson County spent over \$200,000.00 in new equipment with the move to the new jail. The Town of Mountain City also benefits from this new equipment. The original equipment for Johnson County E-911 was received through a grant for \$243,234.00 which was applied for by Johnson County. The total received from Johnson County is over \$443,234.00 for equipment.

Total money received from Johnson County since 1998 including grant money and new equipment is over \$756,480.50.

Total money received from the Town of Mountain City since 1998 including money for their NCIC computer is \$382,626.00; a difference of over \$373,854.50.<sup>32</sup>

#### The January 15, 2004 Meeting of the TECB

On January 15, 2004, a quorum of the TECB deliberated the above quoted resolution adopted by the Board of Mayor and Aldermen of the Town of Mountain City.<sup>33</sup> During the meeting, the Town of Mountain City was represented by its counsel, George Wright, Mayor Burniston and Vice Mayor Morrison. The ECD was represented by its Director, Eugene Campbell and its Chairman Randy Stewart.

During the meeting, the Town argued that its contribution to dispatching from the ECD would be more equitably calculated on a pro rata basis or by a ratio of town to county population, with the County funding a substantially greater percentage.<sup>34</sup> Mountain City argued that its residents pay both Town and County taxes and therefore are paying twice for the contribution to the ECD.<sup>35</sup> Mountain City also argued that the ECD should not be entitled to the emergency telephone service charge if it did not continue dispatching for Mountain City.<sup>36</sup>

In response, the ECD presented a chart comparing the number of incidents to which the ECD responded for Mountain City and the County in 2003. The chart showed the following:

<u>Month</u>	<u>Mountain City</u>	<u>Johnson County</u>
Jan.	103	83
Feb.	96	93
Mar.	147	96
Apr.	128	94
May	229	100
June	206	101
July	207	111

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<sup>32</sup> 12/22/03 Response of ECD, pp. 2-3.

<sup>33</sup> Board Members Sharber and Vickers were not in attendance.

<sup>34</sup> See Transcript of the January 15, 2004 Meeting of the TECB, p. 46.

<sup>35</sup> See *id.* at 64-65.

<sup>36</sup> See *id.* at 47-48. The law does not authorize Mountain City to unilaterally discontinue its citizens' payment of the emergency telephone service charge. The law provides a single avenue for county or city governing bodies to influence the emergency telephone service charge on landlines: by initiating a process to reduce the landline service charge by adopting a resolution requesting the TECB to review the financial statements of the local district serving such county or city. If the TECB determines that the district is accumulating excess reserves or retained earnings, and if the district cannot justify such accumulation of revenues, the TECB may petition the local chancery court to require the local district board to adopt a temporary rate structure recommended by the State Board, or other temporary rate structure sufficient to reduce the excess earnings. See Tenn. Code Ann. § 7-86-313. Local governments, including Mountain City, have no authority to affect the wireless service charge, which is governed by Tenn. Code Ann. § 7-86-108(a)(1)(B) and administered, pursuant to that provision, by the TECB.



Aug.	188	87
Sept.	172	101
Oct.	186	100
Nov.	169	112
Dec.	137	200
<b>TOTAL</b>	<b>1,968</b>	<b>1,278</b>

According to the ECD, the calls counted above for Mountain City included only police related calls and not the water and public works related calls dispatched by the ECD.<sup>37</sup> The ECD asserted that, as of January 15, 2004, in the 167 days of the 2003-2004 fiscal year, the ECD had received \$42,021.50 from the County and \$25,000 from Mountain City. The ECD also provided a July 2, 2003 newspaper article quoting the Town's Alderman Gobble as stating, "There was an agreement in the beginning that the city and county would fund 911 equally but the county has not done that until this year."<sup>38</sup> The ECD also noted that the new dispatch center was secure, unlike the old one, which also needed repairs.<sup>39</sup> It was further noted that the ECD, a small, rural, Tier V district, is nearly financially distressed, within the meaning of Tenn. Code Ann. § 7-86-304.<sup>40</sup> The ECD reported that it had only enough funds to cover payroll through the end of January, with approximately \$5,000 left in a savings account to fund other expenses until April.<sup>41</sup> Based upon this information, the ECD opposed the Town's decision to cut its contribution to the ECD.

When asked why the Town opposed the move to the jail, the Town explained that in the past, the County declined to accept the ECD's dispatching services, preferring instead to dispatch its own emergency calls, which were relayed by the ECD.<sup>42</sup> At that time, according to the Mayor, the Town paid for four dispatchers and the NCIC connection and County paid for two dispatchers.<sup>43</sup> Since the ECD had moved to the jail and commenced dispatching for the County, the Town contended that the County would save over \$94,000, which the Town perceived as inequitable.<sup>44</sup>

During deliberations, it was noted that this was the first dispute the Board had heard in which the parties could not reach some kind of an agreement and that the parties needed to get their egos out of the way and try to deal with the situation logically.<sup>45</sup> The parties were repeatedly encouraged to enter into an interlocal agreement memorializing in writing their relationship.<sup>46</sup> After the Board suggested that calculating the City's

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<sup>37</sup> See *id.* at 49-50.

<sup>38</sup> See *id.* at 51, quoting Barbara Dunn, "Town Council Members Criticize Possible Move," (Publisher not identified) (July 2, 2003).

<sup>39</sup> See *id.* at 51-52.

<sup>40</sup> See *id.* at 78-79.

<sup>41</sup> See *id.*, pp. 86-88.

<sup>42</sup> See *id.* at 59.

<sup>43</sup> See *id.*, pp. 93-94.

<sup>44</sup> See *id.* at 59-60.

<sup>45</sup> See *id.* at 77, 79.

<sup>46</sup> See *id.*, pp. 92, 95.

contribution to the ECD based upon call volume might present an equitable solution, the City indicated a willingness to look at call volume “and try to work out an equitable settlement based upon that volume,” as opposed to focusing solely on the ratio of population.<sup>47</sup> The Board offered the assistance of the TECB staff, adding that no one “wants to see this board have to step in and say this is the way we think it should be. We’d like to see you-all work it out.”<sup>48</sup> The parties were encouraged to “work out something here today that we all feel comfortable as we leave the room that 911 is going to be taken care of in Johnson County.”<sup>49</sup>

To that end, when asked if the Town would be willing to equal its payments for the 2002-2003 fiscal year in order to continue receiving the dispatching service, the Mayor expressed a willingness to present the issue to the Board of Mayor and Aldermen, adding “we want to keep it [the dispatching service] going. We want to work with these guys. But like I said, the first five years we’ve been fighting back and forth and we’ve been doing more than our share.”<sup>50</sup> As the meeting progressed, the parties appeared to agree on the need to seek a rate increase from the Board in the near future.<sup>51</sup> The Town also expressed no opposition to handling its own non-911 calls originating from its 727-8181 line and its water-related calls.<sup>52</sup>

After hearing and considering the parties’ arguments, the Board unanimously voted to direct the parties as follows:

- Johnson County ECD shall continue to dispatch emergency calls for Mountain City and Johnson County until the end of the fiscal year, on June 30, 2004;<sup>53</sup>
- Mountain City shall continue its appropriation to Johnson County ECD up to \$70,000, prorated for the fiscal year to June 30, 2004;  
Johnson County ECD and Mountain City will work together with the staff of the TECB to develop an interlocal agreement which addresses the composition of the ECD Board and a plan for financial appropriations;
- Johnson County ECD will request a rate increase with proper documentation from the TECB in sufficient time for the TECB to consider such request prior to June 15, 2004;
- The ECD will continue to take calls from two (2) lines provided by Mountain City.

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<sup>47</sup> See *id.*, pp. 86-87, 92.

<sup>48</sup> See *id.*, pp. 87.

<sup>49</sup> See *id.*, pp. 99.

<sup>50</sup> See *id.*, pp. 95.

<sup>51</sup> See *id.*, pp. 90-92.

<sup>52</sup> See *id.*, pp. 99-100.

<sup>53</sup> Tenn. Code Ann. § 7-86-103 (10) states that emergency services include, but are not limited to “emergency fire protection, law enforcement, police protection, emergency medical services, poison control, animal control, suicide prevention and emergency rescue management.”

### **Post-hearing Developments**

On March 3, 2004, Mayor Burniston sent the TECB a letter requesting that this matter be placed on the agenda of the next TECB meeting. The letter stated in part:

Apparently nothing was settled relative to the January 2004 meeting in which all parties attended. We have no resolution of the situation between the Town of Mountain City and the Johnson County E911 Comm. District or the funding situation with the fiscal year 04-05 budget rapidly approaching.

The dispute between Mountain City and the ECD will be included on the agenda of the Board's next meeting, which is scheduled for May 27, 2004 at 9:00 a.m. CDT in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. All interested parties are encouraged to attend.

In the meantime, the parties are reminded of the Board's directive to take the initiative and attempt to find a solution to this matter by working together with the staff of the TECB to develop an interlocal agreement which addresses a plan for financial appropriations. **Compliance with this order requires the parties to negotiate together in good faith.**<sup>54</sup> Staff is available, should the parties request their assistance.

On March 18, 2004, the TECB issued a Rural Dispatching Grant to the ECD in the amount of \$30,000 to assist in funding the ECD's dispatching payroll. The TECB created this annual grant in 2003 to address the unique financial challenges facing rural ECDs, which, due to their lower populations have fewer landlines to provide funding.

### **IT IS HEREBY ORDERED THAT:**

- Johnson County ECD shall continue to dispatch emergency calls for Mountain City and Johnson County until June 30, 2004;
2. Mountain City shall continue its appropriation to Johnson County ECD up to \$70,000, prorated for the fiscal year to June 30, 2004;
  3. Johnson County ECD and Mountain City shall attempt to develop an interlocal agreement which addresses the composition of the ECD Board and a plan for financial appropriations;

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<sup>54</sup> At the May 27, 2004 meeting, representatives of both parties shall be prepared to present evidence in the form of testimony or sworn affidavits of their good faith attempts to negotiate. Evidence of a successful resolution of this dispute is preferred. See Tenn. Code Ann. § 7-86-108(f) which states in pertinent part:

. . . Further, the board may also withhold such distribution [of the emergency telephone service charge] if it deems that the district is not taking sufficient actions or acting in good faith to establish, maintain or advance wireline or wireless E- 911 service for the citizens of an emergency communications district.

4. Johnson County ECD shall request a rate increase with proper documentation from the TECB in sufficient time for the TECB to consider such request prior to June 15, 2004;
5. Johnson County ECD shall continue to dispatch calls from two (2) lines provided by Mountain City.

This 31st day of March, 2004.

Randy Porter (with permission, *led*)  
Randy Porter, Chairman

\* \* \* \*

Jerry Sharber, Vice Chairman<sup>55</sup>

Charles Bilbrey (with permission, *led*)  
Charles Bilbrey, Board Member

Ike Lowry (with permission, *led*)  
Ike Lowry, Board Member

Freddie Rich (with permission, *led*)  
Freddie Rich, Board Member

Wanda Moody (with permission, *led*)  
Wanda Moody, Board Member

David Purkey (with permission, *led*)  
David Purkey, Board Member

Shelby Sheffield (with permission, *led*)  
Shelby Sheffield, Esq., Board Member

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Johnny Vickers, Board Member<sup>56</sup>

<sup>55</sup> Mr. Sharber did not participate in the deliberations. Mr. Sharber resigned from the TECB on February 9, 2004. Pursuant to Tenn. Code Ann. § 7-86-302(b)(4), Governor Bredeson appointed Mr. Tom Beehan to complete Mr. Sharber's term.

<sup>56</sup> Mr. Vickers did not participate in the deliberations.